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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

HABITAT FOR HORSES, a Texas non-profit corporation; AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, a New York non-profit corporation; THE CLOUD FOUNDATION, a Colorado non-profit corporation, TONI MOORE; and DR. DON MOORE, Plaintiffs, v. KEN SALAZAR, in his official capacity as Secretary, U.S. Department of the Interior; ROBERT ABBEY, in his official capacity as Director, Bureau of Land Management; KENT WALTER, in his official capacity as Field Manager, Bureau of Land Management, White River Field Office, Defendants.	10 Civ. 7684 (WHP) DEFENDANTS' STATEMENT OF UNDISPUTED MATERIAL FACTS PURSUANT TO LOCAL CIVIL RULE 56.1

Pursuant to Civil Rule 56.1 of the Local Civil Rules of the United States District Court for the Southern District of New York, Ken Salazar, in his official capacity as Secretary, U.S. Department of the Interior; Robert Abbey, in his official capacity as Director, Bureau of Land Management, and Kent Walter, in his official capacity as Field Manager, Bureau of Land

Management, White River Field Office (collectively, the "Government") by and through their attorney, Preet Bharara, states that there is no genuine issue to be tried with respect to the following material facts:

1. The Government did not apply a "categorical exclusion" pursuant to the National Environmental Policy Act ("NEPA"), 42 U.S.C. §§ 4321, to the processing of wild horses that it removed from the public lands of an area located in northwestern Colorado known as the North Piceance Herd Area. Declaration of Francis Ackley dated January 28, 2011 ¶ 8.

Dated: New York, New York
January 28, 2011

Respectfully submitted,

PREET BHARARA
United States Attorney
Southern District of New York

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